

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 28, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1405**

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**Introduced by Assembly Members De Leon and V. Manuel Perez**  
**(~~Coauthor: Assembly Member Carter~~ Coauthors: Assembly Members**  
**Arambula, Caballero, Carter, Coto, Fuentes, Hernandez, Mendoza,**  
**Salas, Saldana, and Solorio)**  
*(Coauthor: Senator Romero)*

February 27, 2009

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An act to add Section 38597.4 to the Health and Safety Code, relating to air pollution.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1405, as amended, De Leon. California Global Warming Solutions Act of 2006: Community Benefits Fund.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission

reductions. The act authorizes the state board to include the use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee to be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for purposes of carrying out the act.

This bill would establish the Community Benefits Fund, and would require a minimum of 30% of revenues generated pursuant to the act, including the fee discussed above, to be deposited into that fund. The moneys in the fund would be used, upon appropriation by the Legislature, in the most impacted and disadvantaged communities in California to accelerate greenhouse gas emission reductions~~and~~ or mitigate direct health impacts of climate change in those communities. The state board would be required to develop a methodology to identify the most impacted and disadvantaged communities. The state board, the State Energy Resources Conservation and Development Commission, and the State Department of Public Health would be required to jointly develop and recommend biennial plans for the use of funds.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 38597.4 is added to the Health and Safety
- 2 Code, to read:
- 3 38597.4. (a) There is hereby established in the State Treasury
- 4 the Community Benefits Fund. A minimum of 30 percent of the
- 5 total revenues generated each year pursuant to this division,
- 6 including, but not limited to, Section 38597, shall be deposited by
- 7 the state board into the Community Benefits Fund. The moneys
- 8 in the fund shall be used, upon appropriation by the Legislature,
- 9 for the purposes described in subdivision (b).
- 10 (b) (1) Funds appropriated by the Legislature from the
- 11 Community Benefits Fund shall be used solely in the most
- 12 impacted and disadvantaged communities in California to
- 13 accelerate greenhouse gas emission reductions~~and~~ or mitigate
- 14 direct health impacts of climate change in those communities. The
- 15 Community Benefits Fund shall be used to provide competitive

1 grants for projects, including, but not limited to, any projects that  
2 do any of the following:

3 (A) Reduce greenhouse gas emissions, while achieving  
4 cobenefits such as reductions in other air pollutants—and,  
5 *diversification of clean energy sources, and improving energy*  
6 *efficiency.*

7 (B) Minimize health impacts caused by global warming.

8 (C) Assist small businesses to reduce their greenhouse gas  
9 emissions.

10 (D) Install or replace equipment that reduces greenhouse gas  
11 emissions.

12 (E) Improvements to mass transit that reduce greenhouse gas  
13 emissions, including, but not limited to, subsidies to commuters.

14 (F) Clean distributed electricity generation systems that reduce  
15 greenhouse gas emissions.

16 (G) Energy efficiency upgrades for schools, senior centers, or  
17 low-income housing that reduce greenhouse gas emissions.

18 (H) Emergency preparedness for extreme weather events caused  
19 by global warming.

20 ~~(2) The state board shall develop a methodology to identify the~~  
21 ~~most impacted and disadvantaged communities. The methodology~~  
22 ~~shall ensure that the most impacted and disadvantaged communities~~  
23 ~~are the areas within each air basin with the highest 10 percent of~~  
24 ~~air pollution exposure within the basin, taking into account~~  
25 ~~socioeconomic factors and the proximity of people to air pollution~~  
26 ~~sources.~~

27 *(2) The state board shall, before June 30, 2010, adopt a*  
28 *methodology to identify the most impacted and disadvantaged*  
29 *communities, meeting all of the following requirements:*

30 *(A) The methodology shall identify, through a peer review and*  
31 *public process, the most impacted and disadvantaged communities*  
32 *as those areas within each air basin with the highest 10 percent*  
33 *of air pollution impacts, taking into account air pollution exposure*  
34 *and socioeconomic indicators.*

35 *(B) The state board shall limit its analysis to a consideration*  
36 *of only socioeconomic indicators for any air basin where variations*  
37 *of air pollution exposure within the air basin cannot be determined.*

38 *(C) The air pollution exposure indicators to be considered shall*  
39 *include, but not be limited to, criteria and toxic pollutant levels,*

1 *proximity to sources, and land use, to the extent data is readily*  
2 *available.*

3 *(D) The socioeconomic indicators to be considered shall include,*  
4 *but not be limited to, income and poverty level, educational*  
5 *attainment, linguistic isolation, and vulnerability to air pollution*  
6 *impacts, to the extent data is readily available.*

7 *(E) The methodology shall be reviewed and updated as*  
8 *necessary through a peer review and public process along with*  
9 *the update of the scoping plan required by subdivision (h) of*  
10 *Section 38561.*

11 (3) The state board, the State Energy Resources Conservation  
12 and Development Commission, and the State Department of Public  
13 Health shall jointly develop biennial plans for the use of funds  
14 under this section.

15 (4) Notwithstanding any other provision of this section, projects  
16 shall only be funded if the state board determines, based on the  
17 facts available to it, that the use of moneys for that project would  
18 be consistent with Article XIII A of the California Constitution  
19 and case law construing that provision. The state board shall ensure  
20 in this regard that no feepayer pays for a disproportionate share of  
21 the global warming harm addressed by this section.

22 (c) Costs incurred to implement the requirements of this section  
23 may be recovered under the fee authority described in Section  
24 38597.